

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Judgment Creditor,

v.

GERARD FAHY,

Judgment Debtor.

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC#
DATE FILED: 7-13-21

11 CR 790 (JGK)

**STIPULATION
AND ORDER FOR
APPLICATION OF PAYMENT**

The United States of America ("the Government"), by its attorney Audrey Strauss, United States Attorney for the Southern District of New York, and the defendant-judgment debtor in the above-captioned case, GERARD FAHY, hereby stipulate and agree as follows:

WHEREAS, this Court entered a judgment against the defendant on May 3, 2013 that imposed a special assessment of \$300 and restitution to the Internal Revenue Service (IRS") in the amount of \$108,593;

WHEREAS, the Court entered judgments against four additional defendants that ordered restitution to the IRS as part of the same scheme in these related cases:

| Defendant | Court No. | Restitution Ordered |
|----------------|-----------------|---------------------|
| Peter Iulo | 11 CR 783 (BSJ) | \$200,000 |
| James Murray | 11 CR 783 (BSJ) | \$120,000 |
| Robert Spence | 11 CR 785 (SHS) | \$108,593 |
| Patrick Hyland | 11 CR 823 (JGK) | \$11,407 |

WHEREAS, pursuant to 18 U.S.C. § 3613, the Government has a lien against all property and rights to property belonging to or due to each defendant up to the amount of restitution that each of them agreed to pay and was ordered to pay unless or until the total restitution amount of \$200,000.00 awarded to the IRS has been fully satisfied by payments made in any combination of contributions from all of the defendants;

WHEREAS, the defendant requested a payoff letter to obtain a release of the Government's statutory lien in connection with his sale of real property;

WHEREAS, the Government provided a payoff letter dated February 10, 2021 in which it agreed to provide the defendant with a satisfaction of judgment upon the payment of \$75,586.12;

WHEREAS, the defendant sold real property at 364 Grandview Boulevard, Yonkers, New York 10710 on or about February 25, 2021 and paid \$75,586.12 to the Clerk of Court in accordance with the payoff letter issued by the Government;

WHEREAS, the Clerk of Court has yet to apply the \$75,586.12 received from the defendant to the restitution to the IRS;

WHEREAS, the Government filed a letter dated May 11, 2021 (Dkt. 25) regarding the application of payments in this case and the related cases;

WHEREAS, and the defendant and the Government have conferred about the amounts paid and owed by all of the defendants to date;

WHEREAS, as of May 11, 2021, the total payments from all defendants to the IRS amount to \$125,168.24, so \$74,831.76 remains owed to the IRS; and

WHEREAS, the defendant concurs with and consents to the Government's position on joint and several accounting and the proposed application of payments as set forth in its letter dated May 11, 2021 (Dkt. 25);

THEREFORE, the parties jointly request that the defendant's payment of \$75,586.12 now be applied to the total \$200,000.00 joint and several restitution ordered to be paid to the IRS as the sole victim the defendant shares with defendants Peter Iulo, James Murray, Robert Spence, and Patrick Hyland, who were each ordered to pay different apportioned amounts of the total loss in the related case numbers 11-CR-783, 11-CR-785, and 11-CR-823, respectively;

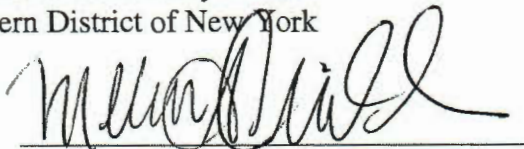
FURTHER, the parties agree that the requested application of payments will satisfy the defendant's restitution debt and reduce the joint and several balance owed by all of the defendants such that the restitution to the IRS will be paid in full and the Government will provide a release of lien and satisfaction of judgment to each defendant; and

FINALLY, the parties agree that after payment of \$74,831.76 in full satisfaction of the restitution to the IRS, \$754.36 should be refunded to the defendant as an overpayment.

ACCEPTED AND AGREED TO IN ALL RESPECTS:

AUDREY STRAUSS
United States Attorney for the
Southern District of New York

By:

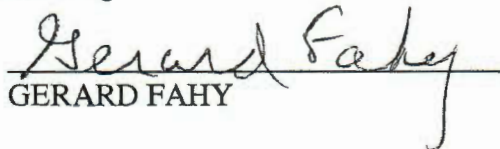


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7/9/21
DATE

GERARD FAHY
Defendant-Judgment Debtor

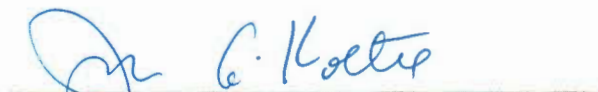
By:



GERARD FAHY

6-16-21
DATE

SO ORDERED:


HONORABLE JOHN G. KOELTL
DISTRICT COURT JUDGE

7/13/21
DATE

